

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.F
Mtg. Date April 18, 2017
Dept. Finance

Item Title: Financial Audit Services Agreement

Staff Contact: Gilbert Rojas, Interim Finance Director

Recommendation:

Adopt a resolution (**Attachment B**) approving an agreement for financial audit services with Van Lant & Fankhanel, LLP

Item Summary:

On February 15, 2017, the City released a Request for Proposals (RFP) for financial audit services. The RFP asked firms to provide a statement of qualifications and experience, an explanation of approach and tentative schedule for the audit, and a minimum of five (5) references.

One firm responded to the RFP. The staff report (**Attachment A**) provides an analysis of the response.

Fiscal Impact:

The anticipated Fiscal Year 2017-18 cost for the audit will be \$31,000. This includes \$27,500 for audit services, \$2,000 for single audit (which may not be required), \$2,500 for 3 State Controllers Reports.

Environmental Review:

- | | |
|-------------------------------------------------------------------|---------------------------------------------------------|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------------|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution (with Agreement for Professional Services)

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 1.F

Mtg. Date April 18, 2017

Item Title: **Financial Audit Services Agreement**

Staff Contact: Gilbert Rojas, Interim Finance Director

Discussion:

On February 15, 2017, the City released a Request for Proposals (RFP) for financial audit services. The RFP asked firms to provide an affirmative statement that the firm is independent of the City, a statement of qualifications and experience, an explanation of approach and tentative schedule for the audit, and a minimum of five (5) references. Additionally, the RFP required a separate itemized maximum fee schedule.

Only one firm responded with a proposal:

- Van Lant & Fankhanel, LLP

Staff contacted references provided by the firm. Van Lant & Fankhanel, LLP (VLF) received outstanding references from the five cities that staff contacted. All of these cities were small cities that VLF has audited a number of years.

The advantages of engaging the services of Van Lant & Fankhanel include the following:

- Staff has determined that VLF proposed fee schedule is reasonable;
- VLF received 100 percent positive feedback from cities contacted by staff;
- The partners, and staff at VLF have extensive experience in auditing local government entities.

Staff recommends that the City Council consider the appointment of Van Lant & Fankhanel, LLP. Staff has prepared a resolution (**Attachment B**) authorizing the execution of an agreement between the City and Van Lant & Fankhanel, LLP.

Included with the resolution is the City's Standard Agreement for Professional Services for a term of three years. However, the City Council has the ability to terminate the Agreement at any time with a 15-days' notice. This provision provides flexibility in deciding whether to continue with the same audit firm for the duration of the Agreement's three-year term or issue a new RFP before the end of the term.

Conclusion:

Staff recommends that the City Council adopt the resolution (**Attachment B**) awarding the contract to Van Lant & Fankhanel, LLP.

Attachment B

RESOLUTION NO. 2017-____

RESOLUTION OF THE LEMON GROVE CITY COUNCIL AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF LEMON GROVE AND VAN LANT & FANKHANEL, LLP TO PROVIDE FINANCIAL AUDITING SERVICES

WHEREAS, on February 15, 2017, the City Council authorized the release of a Request for Proposals for Audit Services; and

WHEREAS, one firm responded to the Request for Proposals (RFP) and the response were evaluated using criteria identified in the RFP; and

WHEREAS, after evaluating the firms qualified based on RFP criteria and reference checks, it is in the best interest of the City Council to select Van Lant & Fankhanel, LLP to provide financial audit services; and

WHEREAS, an agreement for financial auditing services has been prepared to commence audit services for Fiscal Year 2016-17.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Approves the Agreement for Professional Services (**Exhibit 1**) with Van Lant & Fankhanel, LLP to provide financial audit services; and
2. Authorizes the City Manager to execute said agreement.

CITY OF LEMON GROVE AGREEMENT FOR PROFESSIONAL FINANCIAL AUDITING SERVICES

This agreement is entered into the eighteenth day of April 2017, by and between the City of Lemon Grove ("CITY") and Van Lant & Fankhanel, LLP ("AUDITOR");

Section 1. RECITALS.

CITY desires to employ an audit firm to provide professional audit services. CITY has determined that AUDITOR is qualified by experience and ability to perform the desired services and that AUDITOR is willing to perform those services.

Section 2. ENGAGEMENT OF CONTRACTOR.

CITY agrees to engage AUDITOR to perform and AUDITOR agrees to perform the services outlined in "AUDITOR'S proposal" dated March 22, 2017, and Exhibit C (City of Lemon Grove Request for Proposals for Audit Services). AUDITOR represents that all professional services will be performed directly by AUDITOR or under AUDITOR's direct supervision.

Section 3. PROJECT COORDINATION AND SUPERVISION.

The Finance Manager is the Project Coordinator for the CITY and will monitor the progress and execution of this agreement.

Section 4. SCOPE OF SERVICES.

Any professional services performed by AUDITOR before AUDITOR receives written authorization to proceed will be treated as having been done at AUDITOR's own risk and on a volunteer basis.

AUDITOR will, in a professional manner, furnish all labor and all personnel; all supplies, materials, equipment, printing, vehicles, transportation, office space, and facilities; all testing, analyses, and calculations; and all other means, except as otherwise expressly specified to be furnished by the CITY, that are necessary or proper to complete the work and provide the required professional services.

AUDITOR will meet the deadlines imposed by the Project Coordinator, as outlined in Request for Proposal issued by City. When a delay occurs, AUDITOR must immediately notify the Project Coordinator in writing of the cause and the extent of the delay. The Project Coordinator will ascertain the facts and the extent of the delay and, when justified by the circumstances, may grant an extension of time for the completion of the professional services. A delay caused by circumstances beyond AUDITOR's control will be reason for granting an extension of time for completing services. When delays are not sufficiently justified, in the Project Coordinator's sole discretion, liquidated damages of one hundred dollars (\$100) per late report per day will be levied.

Section 5. TOTAL COST AND PAYMENT.

The total cost for all work and deliverables (including the optional reports) specified in the Auditor's Proposal is not to exceed Thirty One Thousand Dollars (\$31,000) for the Fiscal Year ending June 30, 2017. AUDITOR will submit to CITY detailed invoices, describing work performed and the associated costs. CITY will pay AUDITOR for undisputed invoiced amounts within thirty (30) days of receiving an invoice.

Exhibit 1

Section 6. LENGTH OF AGREEMENT.

This agreement is effective as of the date noted above. The agreement will terminate when all work is complete for fiscal years ending June 30, 2017, 2018 and 2019, with the option of extensions to fiscal years ending June 30, 2020 and 2021 (after acceptable cost proposals for each year), unless terminated earlier under Section 10 of this agreement.

Section 7. CHANGES.

CITY may change the requested services within the general scope of this agreement. Changes may consist of additions, deletions, or other revisions; and the contract sum and the contract time will be adjusted accordingly. All changes must be authorized in writing and executed by AUDITOR and CITY.

Section 8. OWNERSHIP OF MATERIALS.

All documents, data, reports, work papers, and other materials including any electronic files prepared by AUDITOR under this agreement are the property of CITY.

Section 9. STANDARD PROVISIONS.

AUDITOR will not discriminate against, harass, or allow the harassment of an employee or applicant for employment because of race, color, religion, sex, or national origin. AUDITOR also will not discriminate against, harass, or allow the harassment of any qualified individual with a disability. AUDITOR will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, age, marital status, or national origin and will make reasonable accommodation to qualified individuals with disabilities. Affirmative action includes, but is not limited to, the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. AUDITOR will post in conspicuous places accessible to employees and applicants for employment all notices provided by CITY that describe the provisions of this non-discrimination clause.

Section 10. TERMINATION.

Either party may terminate this agreement at any time, by giving the other party at least fifteen (15) days written notice and specifying the effective date of the termination.

AUDITOR must provide the originals of all finished and unfinished documents, data, studies, reports, or other materials prepared under this agreement to CITY by the effective date of termination. AUDITOR is entitled to equitable compensation for any work completed, up to the effective date of notice of termination. Compensation may not exceed the total costs authorized in Section 5.

Section 11. INTEREST OF CONTRACTOR.

AUDITOR (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of AUDITOR's services hereunder. AUDITOR further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this agreement.

Exhibit 1

AUDITOR is not a designated employee within the meaning of the Political Reform Act because AUDITOR:

- a. will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the CITY or of any CITY official, other than normal agreement monitoring; and
- b. possesses no authority with respect to any CITY decision beyond rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(a)(2).)

Section 12. ASSIGNABILITY.

This agreement may not be assigned by either party without the prior written approval of the other.

Section 13. INDEPENDENT CONTRACTOR.

AUDITOR and any subcontractors employed by AUDITOR are independent contractors and not employees of CITY. Under any provision in this agreement that may appear to give CITY the right to direct AUDITOR or subcontractors regarding the details of the work or to exercise a measure of control over the work, AUDITOR will follow CITY's direction only regarding the end results of the work.

Section 14. NO AGENCY.

AUDITOR is not an agent of CITY's and may not make any contracts or commitments for or on behalf of CITY without CITY's prior written consent.

Section 15. AUDIT OF RECORDS.

At any time during normal business hours and as often as necessary, AUDITOR must make available to CITY all records pertinent to this agreement and must permit CITY to audit, examine, and reproduce those records. AUDITOR will retain financial and program service records for at least five (5) years after termination of or final payment under this agreement.

Section 16. INSURANCE/WORKER'S COMPENSATION.

AUDITOR will maintain worker's compensation insurance for all work performed under this agreement. The insurance must meet levels required by the State of California and comply with requirements for CITY employees. Additionally, AUDITOR will maintain other insurances as outlined in Attachment B, Section V.

Section 17. DISPUTE RESOLUTION.

Claims or disputes that arise out of this agreement and cannot be settled through negotiation may be submitted to mediation, upon written agreement by both parties. CITY and AUDITOR agree to cooperate in good faith to promptly select a mediator, to schedule a mediation session, and to attempt to settle the claim or dispute.

Exhibit 1

Section 18. NOTICES.

All communication to a particular party is deemed made when received by that party at the following name and address:

Auggie Matt
Finance Manager
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

Greg Fankhanel
Partner
Van Lant & Fankhanel, LLP
25901 Kellogg Street
Loma Linda, CA 92354

Written communication is conclusively deemed to have been received by the addressee five (5) days after it is deposited in the United States Mail, postage prepaid and properly addressed.

Section 19. TIME IS OF THE ESSENCE.

Time is of the essence for every provision of this agreement that states a time for performance and for every deadline imposed by the Project Coordinator.

Section 20. HOLD HARMLESS.

To the fullest extent permitted by law, AUDITOR shall defend (with legal counsel reasonably acceptable to the CITY), indemnify and hold harmless CITY and its officers, agents, departments, officials, representatives and employees (collectively "Indemnitees), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of AUDITOR or its Subcontractors), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert contractors or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of AUDITOR, any Subcontractor, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify any Indemnatee shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of such Indemnatee.

To the extent there is an obligation to indemnify under this Section 20, AUDITOR shall be responsible for incidental and consequential damages resulting directly or indirectly, in whole or in part, from AUDITOR's negligence, recklessness, or willful misconduct.

Section 21. SEVERABILITY.

If a portion of this agreement is determined to be invalid or unenforceable, the rest of the agreement is not affected and remains valid and enforceable.

Section 22. BINDING.

This agreement is binding upon and inures to the benefit of each party's heirs and successors.

Section 23. GOVERNING LAW.

This agreement is governed by and will be construed in accordance with the laws of the State of California. Any action brought to enforce or interpret any portion of this agreement must be brought in San Diego County, California.

Exhibit 1

Section 24. ENTIRE AGREEMENT.

This document sets forth the entire understanding of the parties regarding the rendering of professional services. All other agreements and understandings are superseded by this document and do not affect this document in any way.

CITY OF LEMON GROVE

Van Lant & Fankhanel, LLP

Lydia Romero, City Manager

Greg Fankhanel, Partner

Date

Date

